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In re Application of
Andrew S. Van Luchene, et al
Application No. 09/586,742
Filed: June 5, 2000
Attorney Docket No. 99-091

DECISION ON PETITION

This is a decision on the petition filed September 21, 2000, requesting that the above-identified application be accorded a filing date of June 5, 2000.

The application was deposited on June 5, 2000. However, on August 7, 2000, Initial Patent Examination Division mailed a Notice stating that, while a filing date had been accorded the application papers, page one of the specification was missing from the application.

In response, on September 21, 2000, the present petition was filed wherein petitioner argues that a specification having seventy-two (72) pages was submitted on filing, including page one (1). As evidence thereof, petitioner submitted, *inter alia*, a copy of his postcard receipt which acknowledges that the PTO received a "Patent Application (72 pages)". Petitioner requests that the application, including page one of the specification, be accorded a filing date of June 5, 2000. A copy of page one (1) of the specification accompanied the petition. Alternatively, petitioner requests a filing date as of the date of receipt of page one (1) of the specification.

A review of the record reveals seventy-one (71) pages of specification in the application file, with no page one (1) being located among the application papers. However, the evidence is convincing that the application papers deposited on June 5, 2000, included seventy-two (72) pages of specification, including page one (1) which was subsequently misplaced in the PTO. Therefore, the application was complete on filing and entitled to a filing date of June 5, 2000. Consequently, petitioner's alternative request is moot.

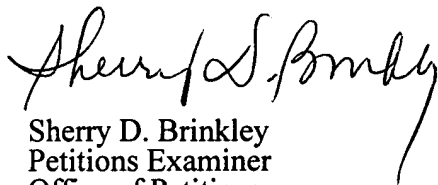
In view of the above, the petition is granted. The copy of page one (1) of the specification supplied with the petition will be used for examination purposes. The petition fee, which was charged to counsel's deposit account, is being refunded thereto.

The Notice mailed August 7, 2000, was sent in error and is hereby vacated.

Receipt is acknowledged of Information Disclosure Statement filed August 28, 2000.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of June 5, 2000.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-9220. Telephone inquiries related to Initial Patent Examination Division processing should be directed to their hotline at (703) 308-1202.

A handwritten signature in cursive script, appearing to read "Sherry D. Brinkley".

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy